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IN THE
COURT OF APPEALS OF INDIANA

CHRISTOPHER A. HICKMAN,	)	
	)	
Appellant-Defendant,	)	
	)	
vs.	)	No. 36A05-0608-CR-422
	)	
STATE OF INDIANA,	)	
	)	
Appellee-Plaintiff.	)	

APPEAL FROM THE JACKSON CIRCUIT COURT
The Honorable William E. Vance, Judge
Cause No. 36C01-0107-CF-63

June 22, 2007

MEMORANDUM DECISION - NOT FOR PUBLICATION

NAJAM, Judge

STATEMENT OF THE CASE

Christopher Hickman appeals his conviction for Robbery, as a Class B felony following a jury trial. He presents one issue for our review, namely, whether the State's evidence is sufficient to support his conviction.

We affirm.

FACTS AND PROCEDURAL HISTORY

At approximately 10:00 p.m. on June 9, 2001, Kula Baker was working as a cashier-attendant at a gas station in Brownstown. Her husband, Denis Dunn, had stopped by the gas station to visit her, and he stepped outside of the building to get change from his truck. A man wearing a blue ski mask, jeans and a polo shirt walked into the building, held a silver handgun approximately ten inches from Baker's face, and demanded money from the register. After explaining that there was no cash register, Baker took approximately $70 in cash from her pocket, and the armed and masked man took the money and ran from the building.

About three weeks later, two women contacted the Brownstown Police Department with information about the robbery. Based on that information, Detective Rick Blaker and Officer Richard Dye obtained a search warrant for Hickman's home, where he lived with his parents, to look for the handgun, ski mask, and clothing. The officers recovered a silver, semi-automatic handgun from Hickman's mother.

Hickman later went to the police station and voluntarily gave a statement. He told Jackson County Sheriff's Detective Sergeant Stan Darlage that a friend, Carey Briggs, had asked Hickman to help with a robbery. Hickman said that he gave Briggs the gun

and the mask to commit the robbery and that Briggs had agreed to split the proceeds with him afterwards. During the interview, Hickman also told Detective Andy Wayman where in Hickman's home the ski mask was located. Detective Wayman recovered the mask from that location. According to both Baker and Dunn, the masked man's build was very similar to Hickman's build.

On July 2, 2001, the State charged both Hickman and Briggs with robbery while armed with a deadly weapon, a Class B felony. The trial court granted Hickman's motion for separate trials, and, on February 28, 2003, Hickman's jury trial began. The jury convicted Hickman, and the court sentenced him on March 25.

On August 7, 2006, Hickman requested permission to pursue a belated appeal, and that request was granted. This appeal ensues.

DISCUSSION AND DECISION

Hickman argues that the State's evidence is insufficient to support his conviction for robbery on, specifically, the element of identification. He also claims that the trial court erred in denying his motion for a directed verdict upon the robbery charge. For a trial court to appropriately grant a motion for a directed verdict, there must be a total lack of evidence regarding an essential element of the crime, or the evidence must be without conflict and lead to an inference in favor of the defendant's innocence. Proffit v. State, 817 N.E.2d 675, 680 (Ind. Ct. App. 2004) (citing Barrett v. State, 634 N.E.2d 835, 837 (Ind. Ct. App. 1994)), trans. denied. If the evidence is sufficient to sustain a conviction upon appeal, the trial court did not err when it denied the motion for a directed verdict. Id.

The well-established standard of review to a challenge of the sufficiency of the evidence to support a conviction requires us to "neither reweigh the evidence nor judge the credibility of the witnesses." Prickett v. State, 856 N.E.2d 1203, 1206 (Ind. 2006). We will affirm if there is substantial evidence of probative value supporting each element of the crime from which a reasonable trier of fact could have found the defendant guilty beyond a reasonable doubt. Id. To prove the offense of robbery as charged, the State must show that Hickman knowingly took money from Baker by using or threatening force and while armed with a handgun. See Ind. Code § 35-42-5-1 (West 2004).

While Hickman correctly asserts that no witness positively identified him as the robber, that assertion does not require us to conclude that the evidence insufficiently proved his identity. We will sustain a conviction based on circumstantial evidence if the circumstantial evidence alone supports a reasonable inference of guilt. Richardson v. State, 856 N.E.2d 1222, 1227 (Ind. Ct. App. 2006) (citing Maul v. State, 731 N.E.2d 438, 439 (Ind. 2000)), trans. denied. Here, the evidence indicates that a man with a physical build similar to Hickman armed with a gun and wearing a blue ski mask took money from Baker. Law enforcement officers found both the gun and ski mask in Hickman's home, and Hickman admitted to planning the robbery with Briggs. These facts support an inference that Hickman was the person who committed the robbery.

Furthermore, the State advanced alternative theories about Hickman's criminal liability, namely, either that he was guilty of: 1) personally committing the robbery; or 2) assisting Briggs to commit the robbery. The court instructed the jury on accomplice liability. "[T]he Indiana statute governing accomplice liability does not establish it as a

separate crime, but merely as a separate basis of liability for the crime charged." Taylor v. State, 840 N.E.2d 324, 333 (Ind. 2006) (holding, on post-conviction review, that a jury is not required to reach a unanimous verdict on a theory of liability). See also Ind. Code § 35-41-2-4. To sustain a conviction as an accomplice, there must be evidence of the defendant's affirmative conduct, acts or words, from which an inference of common design or purpose to commit the crime may be reasonably drawn. Vandivier v. State, 822 N.E.2d 1047, 1054 (Ind. Ct. App. 2005), trans. denied.

Hickman's own admissions that he planned the robbery with Briggs and provided the handgun and ski mask used by the robber are sufficient to sustain his conviction for robbery as an accomplice. Because the evidence is sufficient to sustain Hickman's conviction, the trial court did not err by denying Hickman's motion for a directed verdict.

Affirmed.

RILEY, J., and BARNES, J., concur.